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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/686,432	10/15/2003	Michael Wayne Brown	AUS000054US2	7293
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BRACEWELL & PATTERSON, L.L.P.			EXAMINER	
P.O. BOX 969			IWARERE, OLUSEYE	
AUSTIN, TX 78767-0969			ART UNIT	PAPER NUMBER
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/686,432

Applicant(s)

BROWN ET AL.

Examiner

OLUSEYE IWARERE

Art Unit

3627

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 23 January 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-10 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-10 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 10 January 2008 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-8508)
- 4) ☐ Interview Summary (PTO-413)
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____
- Paper No(s)/Mail Date _____

DETAILED ACTION

1. This communication is a Final Rejection Office Action in response to the communication filed on received on January 23rd, 2008. The amendments to the specification have been entered. Claims 1 - 10, as originally filed are currently pending and have been considered below.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

4. Claims 1 - 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Salvo (6,341,271) in view of Sone (6,204,763).

As per claim 1, Salvo discloses a store inventory management system, said system comprising:

a computer system with access to a database of current merchant inventory for a store and a database of orders for said store (col. 2, lines 26 – 31; via automated computer managed inventory systems have been proposed to overcome some of the above-noted shortcomings. In one proposed system, an inventory system determines amounts and past usage in tanks to schedule, orders replenishing material);

a communication interface between said computer system and a universally accessible database, wherein selections of items that are absent from a plurality of homes are accessible at said computer system via said universally accessible database according to a plurality of universal identifiers each respectively associated with one of said plurality of homes (col. 7, lines 55 - 62; via the analyzed information from the control unit 114 is typically accessible anywhere and any time, for example by phone, voice mail, fax, overnight and regular mail, courier, and over the Internet. If the information is sent over the Internet, the analyzed information is available by simply connecting to an appropriate web site, where the analyzed information is presented and updated instantaneously, or as appropriate);

and an inventory control element executable on said computer system for adjusting future orders for said store according to current inventory, ordered inventory and said selections of items that are absent from said plurality of homes. ((57); via the system includes a storage for inventory, an indicator for monitoring and reporting the level of current inventory, and a controller for receiving information from different

inventory suppliers and for integrating such information with information on current inventory amounts and estimated future use to decide if an order for replacing inventory should be made).

However, Salvo fails to explicitly disclose "food-related inventory". Sone teaches, (col. 1, line 16; Refrigerators for storing refrigerated consumable food items), for the purposes of preventing undesirable perishable food spoilage.

From this teaching of Sone, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the inventory management system of Salvo to include food related items taught by Sone in order to prevent undesirable perishable food spoilage.

As per claim 2, Salvo teaches, wherein said inventory control element adjusts said future orders according to a historical database of inventory for said store accessible at said computer system (col. 2, lines 26 - 31; via automated computer managed inventory systems have been proposed to overcome some of the above-noted shortcomings. In one proposed system, an inventory system determines amounts and past usage in tanks to schedule, orders replenishing material).

As per claim 3, Salvo teaches, wherein said selections of items that are absent from said plurality of homes include expected dates for purchase (col. 11, lines 57 - 63; via a display for an indication of a latest low-amount notification date at 227; and a display for a material shipped date at 229. These displays are merely exemplary, and

the exact displays are determined to provide plant management and vendors with the highest degree of information needed and desired by them).

As per Claim 4, Salvo inherently discloses said selections of items that are absent from said plurality of homes are accessed in an extensible mark-up language data format (col. 6, line 31; via including internet communication; it is evidence that the internet uses extensible mark-up languages such as HTML and XML).

As per claim 5, Salvo teaches, wherein said communication medium comprises a connection to a network from which said universally accessible database is accessible (col. 7, lines 55 – 62; via the analyzed information from the control unit 114 is typically accessible anywhere and any time, for example by phone, voice mail, fax, overnight and regular mail, courier, and over the Internet. If the information is sent over the Internet, the analyzed information is available by simply connecting to an appropriate web site, where the analyzed information is presented and updated instantaneously, or as appropriate).

As per claim 6, Salvo teaches, wherein said universally accessible database directs access to a plurality of universally accessible server systems according to said plurality of universal identifiers (col. 9, lines 48 - 53; via the inventory management system 100 enables location and identification of individual inventory orders at the manufacturing site 103, for example identification of a vendor's inventory at the

manufacturing site 103. This inventory identification can use identifying codes, such as, but not limited to, bar codes).

As per claim 7, Salvo discloses all the elements of the claimed invention but fails to explicitly disclose, wherein said inventory control element further comprises:

means for identifying food-related items included in said selections of food-related items that are absent from said plurality of homes that are not included in a database of current food-related inventory and said database of food-related orders for said store.

Sone teaches, means for identifying food-related items included in said selections of food-related items that are absent from said plurality of homes that are not included in a database of current food-related inventory and said database of food-related orders for said store (col. 4, lines 2 – 4; via similarly, the inventory processor is configured to add an item to the list for each absent item which is associated with a presence sensor).

From this teaching of Sone, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the inventory management system of Salvo to include the inventory processor of Sone in order to include items which are absent in the database.

As per claim 8, Salvo teaches, wherein said plurality of universal identifiers are provided to said computer system by each of said plurality of homes (col. 9, lines 48 -

53; via the inventory management system 100 enables location and identification of individual inventory orders at the manufacturing site 103, for example identification of a vendor's inventory at the manufacturing site 103. This inventory identification can use identifying codes, such as, but not limited to, bar codes).

As per claim 9, Salvo teaches, wherein said inventory control element further comprises: means for assigning a sale offer for a particular period to a particular item according to said selections of items that are absent from said plurality of homes (col. 6, lines 18 - 22; via as a desirable (premium) price to sell the pellets. Therefore, the inventory management system 100, as embodied by the invention, determines a real-time premium price for the vendor's product, and alerts plant management so sales can be made).

As per claim 10, Salvo discloses all the elements of the claimed invention but fails to explicitly disclose, wherein purchases by each of said plurality of homes are monitored in association with each of said respective plurality of universal identifiers.

Sone teaches, wherein purchases by each of said plurality of homes are monitored in association with each of said respective plurality of universal identifiers (col. 3, lines 60 - 65; via the inventory processor thus comprises a program, which monitors the sensors, so as to determine the actual inventory of desired household consumable items. The actual inventory is compared to a desired inventory, and a list is

made of those items, which are part of the desired inventory, but are not present in the actual inventory).

From this teaching of Sone, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify inventory management system of Salvo to include the monitoring of sensors of Sone, in order to determine the actual inventory of desired household consumable items.

Response to Arguments

5. Applicant's arguments filed January 23, 2008, have been fully considered but they are not persuasive.

Applicant argues, "Salvo is merely directed to an inventory management system that is capable of monitoring inventory amounts of a single inventory user (e.g., at a manufacturing site or an inventory vendor site), automatically placing orders for replacement inventory with an inventory supplier (based on predetermined criteria), and tracking delivery progress of the replacement inventory from the inventory supplier to the single inventory user."

However, Salvo states in col. 12, lines 19 – 24 "While various embodiments are described herein, it will be appreciated from the specification that various combinations of elements, variations or improvements therein may be made by those skilled in the art, and are within the scope of the invention." Therefore, a plurality homes instead of a single home will not differ from the scope of the invention. Therefore, the Examiner respectfully disagrees.

Applicant argues, "Neither Salvo or Sone, alone or in combination, teach or suggest adjusting future food-related orders for a store according to current food-related inventory, ordered food-related inventory and selections of food-related items that are absent from a plurality of homes."

However, Sone states in col. 7, lines 19 – 28 "Accordingly, the control unit 114 determines the amount of inventory used over time, can estimate future use, and determine if an inventory order is needed." The adjusting of future orders is determined by the control unit. Therefore, the Examiner respectfully disagrees.

Conclusion

6. THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to OLUSEYE IWARERE whose telephone number is (571)270-5112. The examiner can normally be reached on M-Th.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ryan Zeender can be reached on (571)272-6790. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Elaine Gort/
Primary Examiner, Art Unit 3627

3/2/2008

OI